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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,985	02/25/2004	Kazushi Kita	CS-02-040225	8953
22712	7590	07/14/2005	EXAMINER	
PAUL A. GUSS PAUL A. GUSS ATTORNEY AT LAW 775 S 23RD ST FIRST FLOOR SUITE 2 ARLINGTON, VA 22202				LESLIE, MICHAEL S
ART UNIT		PAPER NUMBER		
		3745		

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/784,985	KITA ET AL.
	Examiner Michael Leslie	Art Unit 3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6, 9 and 10 is/are rejected.
- 7) Claim(s) 1, 7, 8 and 11 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/25/04, 11/19/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input checked="" type="checkbox"/> Other: <u>IDS - 2/3/05</u> .

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “adjusting member” in the “cylinder body” and in the “cover member and the cylinder body” (claims 1 & 2), the “rotatable member” in the “cylinder body” and in the “cover member and the cylinder body” (claims 1 & 2), and the “installation hole” on the “cylinder body” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The disclosure is objected to because of the following informalities: Page 9, Line 20, “cylinder tube 14” should be --cover member--.

Appropriate correction is required.

***Claim Objections***

Claim 1 is objected to because of the following informalities: Line 12, “with” should be - -within-. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is rejected because it recites “a first bypass passage” and “a second bypass passage”, which appears to be a restatement of the “bypass passage” recited in claim 1, which constitutes a double inclusion of the same element.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al (2710595) in view of Bowman (429881).

Peterson et al discloses a cylinder apparatus having a cylinder body (10) with a cylinder chamber closed by a cover member (12, 14), a piston (18) in the cylinder chamber, a port (36, 88) in the cover member, and a cushion mechanism including a bypass passage (42, n/a; 94, n/a) communicating the port and cylinder chamber and an adjusting member screwed within the cover member. Wherein the cover member includes a head cover (12) and a rod cover (14). The cover member includes an installation hole (not numbered) having a first hole section (surrounding 48), a second hole section (conical portion below first section), a female thread section (not numbered), and a communication section (below thread section). Wherein the communication section is between a first bypass passage (42; 94) and a second bypass passage (n/a; n/a). Peterson et al does not teach that the adjusting member includes an engaging projection, or that the cushion mechanism further includes a rotatable member having an engaging recess and is prevented from displacement.

Bowman discloses a valve for flow control having an adjusting member (B) with an engaging portion (B2), and a rotatable member (D) having an engaging recess (n/a) and is prevented from displacement.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion mechanism of Peterson et al by using an adjusting member with an engaging portion, and a rotatable member, being prevented from displacement,

having an engaging recess as taught by Bowman for the purpose of adjustably controlling flow through the bypass passage.

In further regard to claims 6, 9, and 10, Peterson et al as modified with respect to claim 1 further teaches the rotatable member having a columnar holding section (D3) and a flange section (D2), a clearance is always formed between the engaging projection and engaging recess, and the adjusting member includes a needle having the engaging projection at an upper portion, a guide section, a screw section (B'), and a tapered section.

NOTE: With regard to claim 4, interpretation was made in deference to the drawings. Specifically, as the claim recites the "installation hole" being in the cylinder body, the corresponding description in the specification refers to figure 3 (page 9, lines 18-20), which shows the installation hole in the "cover member".

#### *Allowable Subject Matter*

Claims 7, 8, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Prior Art*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 1362986, 1880177, 1975030, 2167433, and 3337183 each disclose flow control valves having an adjusting member with an engaging portion and a rotatable member having an engaging recess, and 3238850 and 3805672 each disclose cushioned cylinders.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (571) 272-4819. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571) 272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML  
July 6, 2005

  
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AU 3745

  
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